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**LEGAL ASPECTS OF
SAFETY IN CONSTRUCTION**

BY

LISA B. FREELAND

**A REPORT PRESENTED TO THE GRADUATE COMMITTEE
OF THE DEPARTMENT OF CIVIL ENGINEERING IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF ENGINEERING**

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I would like to sincerely thank Mr. Gene Taylor, Director of the Safety Department, Navy Public Works Center (NPWC), Pensacola, Florida. He generously provided encouragement, many hours of helpful discussion, and access to the extensive safety library maintained at the NPWC. The Safety Department staff members were also helpful and supportive in every way.

A genuine interest in spreading the word about safety was evident in word and action.

Forward

Safety is a general subject area that has never particularly interested me.

Attendance at safety meetings was considered boring and time consuming. An impromptu appearance of the Safety manager at my office door was met with silent/private groans. I will not incriminate myself further with any of the other stupid thoughts I have had on the subject. Suffice it to say that I chose the topic of "Legal Aspects of Safety in Construction" in recognition of my own dangerous attitudes and a desire to change them.

My own life experience has included relatively few accidents of any kind and those that I have experienced were relatively minor and inconsequential in nature . . . until recently. During the time frame in which I was performing the research for this report, I also had a very serious car accident which but for the grace of God could have resulted in serious injury or death to my two young children and me.

A permanent impression was made on my mind as I surveyed the total wreckage of our car, personal belongings strewn for 200 feet, and frightened crying children. There was perfect irony in realizing that thousands of pages of safety reference books and research notes were among the debris.

This accident got my attention. It was preventable. There was a cause . . . and the accident was the effect. Experience is the best teacher but clearly there are some experiences ,such as this one, that do not lend themselves to firsthand knowledge. The risk is too great and the experience is of no value if one does not live to benefit from it.

Safety Engineering, Education, and Enforcement are intended to prevent accidents. I hope the current high level of interest that I have in safety will never be replaced by the old lackadaisical attitudes.

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CHAPTER I

INTRODUCTION

1.1 Background and History

Individual and societal attitudes concerning safety are continually evolving.

The book, Work is Dangerous to Your Health , describes safety as "a vast problem.

Among the 80 million workers in the United States, more than 14,000 deaths on the job are recorded annually, and about 2.2 million disabling injuries. Those are probably minimal figures, for every worker knows the devices by which industry pads its safety records (5-ii)." These figures reflect pre-1973 statistics. The National Safety Council still reports that there are more than 11,000 work related deaths per year and about 2 million injuries. Changes in society and technology are reflected in the evolution of safety legislation and case law over the past century.

The history of occupational safety and health was greatly affected by the industrial revolution. "Changes in production methods with their concomitant need for masses of workers brought with them hazards never before encountered. . . . Deaths and injuries were accepted as being part of 'industrial progress' (8-3)."

Three doctrines of common law which were prevalent at the time were

- * the *Fellow Servant rule* which held that the employer was not liable for injury to an employee that resulted from negligence of a fellow employee ,

* *Contributory Negligence* which supported the employer as not liable if the employee was injured due to his own negligence, and

* *Assumption of Risk* which protected the employer from liability because the employee took the job with full knowledge of the risks and hazards involved.

It was the early 1900's before any significant legislative action took place concerning safety. Many federal and state worker's compensation laws were passed during the first two decades of the 20th century. This was one way to enlighten management to accept responsibility for prevention of accidents. This new line of thinking held the employer responsible for a share of the economic loss suffered by the employee who was involved in an accident. The National Council for Industrial Safety (now the National Safety Council) was established in 1913.

The mission of the National Safety Council is to educate and influence society to adopt safety and health policies, practices, and procedures that prevent and mitigate human and economic losses arising from accidental causes and adverse occupational and environmental exposures. (Adopted by the Board of Directors, 1983).

A primary objective which took shape over time was the development of safety standards. During the 1920's the American Standards Association came into being (under a different name) and has been an important partner in standard setting for the safety movement. Standards provide an important tool for the courts

to ascertain such things as state-of-the-art safety technology and accepted standards of the industry.

The Walsh-Healy Act of 1936 directed some attention to occupational safety and health. The importance of safety in the work place was further highlighted by labor shortages experienced during World War II. Increased emphasis on safety was well established and did not diminish with the end of the war. In 1948 Admiral Ben Moreel wrote

Although safe and healthful working conditions can be justified on a cold dollars-and-cents basis, I prefer to justify them on the basic principle that it is the right thing to do. In discussing safety in industrial operations, I have often heard that the cost of adequate health and safety measures would be prohibitive and that 'we can't afford it'. My answer to that is quite simple and quite direct. It is this: If we can't afford safety, we can't afford to be in business. (8-6)

This noble sentiment was not shared by all and change has not come easily. "No essential rights now enjoyed by working men and women were simply bestowed by government; rather, they were won through struggle (5-13)." Lobbying and concerted action was and is still required to make the work place safe.

During the 1960's Congress enacted numerous pieces of safety legislation. However, each law was limited in scope to specific employers or industries. Each

law may have been the product of some specific lobbying effort but cumulatively the laws did not cover the majority of employers or employees.

The Occupational Safety and Health Act (OSHAct) was signed into law on Dec. 29, 1970 and took effect on April 28, 1971. This was landmark legislation for the United States because it created national safety policy for the first time. It was both comprehensive in scope and applicability. While other related federal legislation may remain on the books, the OSHAct is now the major law mandating construction safety. The OSHAct was not an instant solution to all safety problems. Subsequent amendments have added teeth to the enforcement provisions in addition to continually improving specific safety requirements.

The OSHAct has been and probably always will be the subject of a great deal of controversy. There are vocal advocates of the Act and its objectives and there are certainly strong opponents. The two sides of the issue battle continuously over attempts to water down or strengthen the legislation. No one is likely to voice the opinion that workers should not be protected from unsafe conditions. They are much more likely to speak of free enterprise, cost-effectiveness, unrealistic demands, government interference or ineptitude, or similar arguments. OSHA was the target of much criticism during its first decade in existence primarily for ineffective enforcement and pro-industry positions concerning safety standards.

However, efforts to weaken the Act have generally failed and legislation to strengthen the Act has been passed by Congress over the years. Dr. Eula Bingham, appointed as the Assistant Secretary for Occupational Safety and Health in 1977 is credited with putting OSHA in a position to carry out its Congressional mandate.

By the mid-1980's, membership in the American Society of Safety Engineers had grown to approximately 21,000. Hundreds of four year colleges offer safety courses and several dozen offer degrees in safety.

Philosophies have changed considerably since the time when accidents were accepted as just a part of progress. The horrible history of mistreatment and disregard of children and career employees makes it all the more important to value the gains that have been made in occupational safety and health, guard them, and push forward for ever more effective safety policies and regulations.

1.2 Topic Overview

The purpose of this paper is to summarize much of the information that regulates occupational safety and health in industry today. Most of the assembled information is that which would apply to almost every employer. It will be shown that knowledge and compliance in this legislative area has become an essential part of managing a business.

The background and history of occupational safety and health issues is provided to show the progression of thought that resulted in gradual advancement of safety and health legislation. Whatever backsliding may have occurred along the way, the trend has generally been toward stronger and stronger legislation to protect the worker. The Occupational Safety and Health Act of 1970 is pivotal to any study of employee safety and health legal issues.

Chapter 2 is devoted to understanding the OSHA Act itself, the source and limits of authority, the way the Act is administered, rights and duties of all affected parties, and the important administrative/procedural elements of the Act. Comprehension of this material may influence a manager/employer to institute safety programs and take actions required by law. General statutory requirements are covered first, followed by the distasteful consequences of noncompliance in Chapter 3.

Chapters 4 and 5 focus on issues specific to the construction industry. Chapter 4 provides a brief discussion about the "industry specific" standards for construction that are codified under 29 CFR 1926. Chapter 5 covers some of the legal issues that may arise related to safety and health in the workplace and case law examples of how the courts tend to view certain issues. The limited number of cases referred to are intended to provide a reasonable sampling of judicial thinking.

Research in areas of specific interest is left to the reader. Finally a summary of emerging trends related to safety and health is provided.

CHAPTER II

THE OCCUPATIONAL SAFETY AND HEALTH ACT

2.1 Administration

Administration of the OSHAct is vested in four different government agencies. They are

- 1) The Occupational Safety and Health Administration under the Department of Labor,
- 2) The Occupational Safety and Health Review Commission acting as an independent agency of the Executive Branch,
- 3) The National Institute for Occupational Safety and Health under the Department of Health and Human Services, and
- 4) The Bureau of Labor Statistics within the Department of Labor.

2.1.1 The Occupational Safety and Health Administration

The Occupational Safety and Health Administration (OSHA) was created by the Department of Labor to discharge its duties under the OSHAct. The following areas of authority are thereby delegated to OSHA:

- * to promulgate, modify, and revoke safety and health standards.
- * to conduct inspections and issue citations including proposed penalties.

- * to require employers to keep and submit records of safety and health data.

- * to petition the courts to restrain (by injunction) imminent danger situations.

- * to approve or reject state plans for programs under the Act.

- * to grant funds for state programs.

- * to provide training, education, and consultation with employers and employees.

- * to develop and maintain a statistics program for occupational safety and health.

2.1.2 Occupational Safety and Health Review Commission (OSHRC)

The OSHRC consists of three members who are appointed by the President and confirmed by the Senate. Its primary function is to adjudicate OSHA enforcement actions which are contested by the employer, employee, or their representatives. The Commission hears all appeals on actions concerning citations, proposed penalties, abatement periods, and rules on the appropriateness of those actions.

The contested cases are first heard by an administrative law judge of the Commission. The judge's decision is subject to review by the three member Commission and can be changed by a majority vote. The Commission is the final administrative authority to rule on the case. A case can be contested further in the courts.

2.1.3 National Institute for Occupational Safety and Health (NIOSH)

NIOSH was established under the provisions of the OSHAct within the Department of Health and Human Services. NIOSH is the principle federal agency tasked with research, education, and training related to occupational safety and health. The results of the research are used to develop recommendations for new standards which are forwarded to OSHA for action.

2.1.4 Bureau of Labor Statistics (BLS)

The BLS is responsible for statistical analysis of injury and illness data. The responsibility extends to determining the best ways to collect the necessary data including employer reporting requirements.

2.2 Applicability

The OSHAct is applicable to almost every employer who has employees and who is engaged in a business affecting interstate commerce. It is the intent of

Congress that every employee be provided safe and healthful working conditions. Nonetheless, certain employers are specifically excluded from the Act and other employers may have reduced or modified requirements. It is important for an employer to be aware of the requirements specifically applicable to his industry.

2.2.1 Modified Requirements

For example, an employer with ten or fewer employees is generally excluded from reporting requirements and inspections. However, employee complaints, imminent dangers, health hazards, or severe accidents among other things can still trigger inspections.

2.2.2 Exclusions

The following are specifically excluded from coverage by the Act:

- * All federal, state and local government employees. Federal employees are covered by special provisions in the Act which require that each federal agency head establish and maintain a safety and health program consistent with the standards set forth by the Secretary of Labor. Executive Orders have expanded on the federal requirements and OSHA implementing regulations can be found in 29 C.F.R. Part 1960. While federal employees are well covered, a gap exists for public employees in

states that do not have their own approved programs. These employees are not covered by the OSHAct in any manner.

* Operators and miners covered by the Federal Mine Safety and Health Act of 1977.

* Those operations where a federal agency (and state agencies acting under the atomic energy act of 1954) other than the Department of Labor has statutory authority to prescribe or enforce safety standards and is performing that function. This provision should not be heavily relied upon to avoid OSHA enforcement action. OSHA will be deemed to have authority to act where another agency is not fully enforcing or regulating safety and health matters.

* Churches, religious organizations, immediate family of a farmer, and domestic employees in private residences are not covered by this Act.

2.3 Employer and Employee Duties and Rights

The broadest and most comprehensive statement of employer and employee duties contained in the OSHAct is as follows:

Section 5: a) Each employer - 1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; 2) shall comply

with occupational safety and health standards promulgated under this Act; b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to the Act which are applicable to his own actions and conduct.

Section 5(a)(1) above is widely and frequently applied by the courts as the "general duty clause". This clause is invoked when no specific standard is applicable to a particular recognizable hazard. The sweeping and general nature of the clause leaves a great deal of room for interpretation on the part of enforcement and judicial authorities. There is more to complying with OSHA than simply compliance with the letter of the law. Safety and health managers should focus their efforts toward interpreting the standards with that simple doctrine as a constant guide.

"Rights" and "duties" are legally important concepts. "Rights can be effectively assigned, but not duties. At least, one cannot relieve himself of liability for nonperformance or poor performance by delegating his duties to someone else....the person delegating the duties is still responsible for their performance (10 -99)."

2.3.1 Specific Employer Duties

The employer has a broad range of duties under the OSHA Act. Failure to fulfill these duties can result in citations, fines, and civil and criminal penalties.

1) The employer has the responsibility to *inform employees* completely concerning their rights and duties. This extends to fully notifying them about any hazards to which they are exposed. There are specific standards that cover many areas of hazard notification and minimum requirements that must be met. Some of the more critical subject areas include asbestos, carcinogens, vinyl chloride, coke oven emissions, and the Hazard Communication standard for hazardous chemicals.

2) The employer must *examine the work place conditions* to verify that it complies with all applicable safety and health standards. This is a proactive and preventative provision. Checklists should be made following statutory standards but common sense must also always be applied.

3) It is management's responsibility to *check employee equipment*. This includes safe and properly maintained tools, construction equipment, and personal protective equipment. This applies whether the items are employer provided or brought from the employees home.

4) Employers must *use appropriate signs and labels* to warn employees of potential hazards. The standards for the size, colors, wording, and designs are very specific within the OSHA standards. Many of the required visual notifications are available commercially and made to OSHA specifications.

5) Management has a duty to *establish operating procedures* which are

clearly communicated and consistently enforced. Sporadic or uneven enforcement will almost certainly be used against the employer in whatever safety dispute that might arise.

6) Employers must *prepare a written emergency action plan* which provides guidance to protect employee safety in the event of an emergency. The plan must have been communicated to affected employees and be readily available. The following elements must be included at a minimum: escape procedures and routes; critical operations; employee accounting following an emergency evacuation; rescue and medical duties; means of reporting emergencies; and persons to contact for information and clarification. (An orally communicated plan is acceptable for employers with ten or fewer employees.)

7) An employer must *provide medical examinations* when so required by the standards. The requirements will vary based on the type work involved and the health risks associated with it.

8) An employer must thoroughly *investigate accidents*. It would be wise to investigate all accidents or near-accidents to determine a cause and make changes to prevent recurrence. Clearly if a near-accident occurred and corrective action was not taken, the legal consequences of any subsequent accident in that area would be severe. However accident investigation is required for accidents involving

death or serious injury. A great deal of excellent reference material is readily available with advice on completing a purposeful investigation. A sample accident investigation form is included as Appendix A.

Accident investigation will serve several important purposes. 1) It will satisfy OSHA statutory requirements for reporting. 2) The factual information gathered may be useful in possible legal proceedings with the injured party and with OSHA. 3) Finally, determination of the cause(s) of the accident is essential to make changes that will prevent a similar accident from occurring again.

A thorough accident investigation should produce the following information as a minimum:

- * The type of accident; a general categorization such as "fall from more than 20 feet" or "skin contact with toxic chemical".

- * The events and conditions that caused or contributed to the occurrence of the accident (conditions of the work environment and actions that took place). The objectivity and completeness of this element is critical to obtaining useful results.

- * The equipment, substance, tools, or structure directly involved in the accident.

- * An accurate description of the type of injury. Appendix B

is a chart of scheduled charges for loss of extremities which is very specific concerning the loss that occurred.

The accident investigation should be initiated as soon as possible after it has occurred and by someone who is able to act impartially. The goal should be to uncover the facts not find someone to blame.

Fatal accidents or accidents which result in the hospitalization of five or more employees must be reported to the nearest OSHA office within 48 hours.

9) Employers must *keep accurate records* on work related deaths, injuries, and illnesses (other than minor) and submit reports on these as required (see Appendix C).

10) The employer must *make medical records accessible* to employees, their designated representatives, the assistant secretary of labor, and his designated representatives.

11) The employer must *preserve medical and exposure records* for 30 years. If the company goes out of business the records are to be transferred to NIOSH.

12) The employer must *comply with posting rules* which includes posting of OSHA citations for a minimum of 3 working days or until the violation is abated, whichever is longer. In addition the OSHA poster (see Appendix D),

recordkeeping forms, and certain other notices must be posted.

13) The employer must *abate cited violations* within the prescribed timeframe or be cited for "failure to abate" which includes a \$100 per day fine. There are provisions in the law for petitioning for an extension in the abatement period or for contesting the citation in its entirety (2-711:102).

2.3.2 Employee Duties

The employee has the duty to comply with the safety and health standards issued by OSHA. The responsibility to inform the employee of the applicable standards remains with the employer. This employee responsibility simply relieves the employer of some liability for an uncooperative employee. First and foremost the OSHAct is intended to protect the employee which is currently held to be an employer (management) responsibility.

2.3.3 Employer Rights

The employer has many rights with respect to enforcement of the OSHAct. The Accident Prevention Manual for Industrial Operations is the primary source for the following summary of significant rights:

1) The employer has the right to seek advice and off-site consultation as needed through the nearest OSHA office.

2) The employer has the right to free on-site consultation upon request.

The on-site consultation will be similar in most regards to an OSHA inspection and standard violations are subject to legal sanctions. However it is reasonable to expect that the "good - faith" willingness to comply with OSHA that the employer has demonstrated will weigh in his favor, particularly if non-serious violations are noted.

3) The employer has the right to request and receive proper identification of the OSHA compliance safety and health officer (CSHO) prior to inspection.

4) The employer has the right to have an opening and closing conference with the CSHO.

5) The employer has the right to be advised by the CSHO of the reason for an inspection.

6) The employer may file a Notice of Contest with the OSHA area director within 15 working days of receipt of a citation and proposed penalty.

7) The employer has a right to apply for a temporary or permanent variance from an OSHA standard with different criteria for each.

8) The employer has the right to participate in the standard setting processes through hearings, written responses to announcements in the Federal Register, and participation in the OSHA standards advisory committees.

9) The employer has the right to be guaranteed confidentiality of trade secrets observed by an OSHA compliance officer.(8-21)

Furthermore the employer has the right to refuse access to the site for a warrantless search. "Insistence on a valid inspection warrant is squarely within (the employer's) constitutional rights. It is also not unheard of for OSHA to skip the inspection of an employer rather than go through the process of obtaining a warrant (7-18)." Even the most safety conscious of employers may find it prudent to initially deny the CSHO entry onto the premises. If consent is initially given for the inspection to begin, the voluntary consent cannot be withdrawn or contested later when a standard violation is discovered.

On the other hand, it will probably take a minimum of two working days for the inspector to obtain a warrant. During that time a certain amount of preparation for the inspection can be accomplished. The potential ramifications of citations, penalties (fines), and legal battles (along with the associated costs) often make this the preferred choice. Demanding an inspection warrant is not uncommon and therefore the inspection should proceed professionally (without hostility) if and when it does occur.

2.3.4 Employee Rights

The Act is by its very nature and intent is concerned primarily with employee rights rather than their duties. "Employee rights fall into three main areas and are related to (1) standards, (2) access to information, and (3) enforcement (8-22)." A summary of rights is provided below. A more exhaustive list is provided as Appendix E.

With regard to OSHA *standards* the employee has extensive rights.

- * The employee has the right to provide input into the adoption or modification of safety and health standards.

- * The employee also has the right to be informed of all variances from established standards that the employer has applied for and may participate in variance hearings concerning the matter.

Generally speaking the employee has a right to *access all information* pertinent to their safety and health.

- * Employees must be provided with access to applicable OSHA standards, rules, and regulations in addition to specific training concerning their rights and responsibilities.

- * Employees have a right to complete information regarding hazardous materials to which they may be exposed. This includes exposure

levels, notification if regulated levels are exceeded, access to their own medical history of exposure, and information from NIOSH upon request concerning the effects of hazardous materials. The latter requirement does not eliminate the employer's responsibility to have provided the necessary information and appropriate training. This area of the regulations can be found under CFR 1910.1200 as the Hazard Communication (Right-to-Know) rule.

- * Employees have the right to observe any required monitoring or measuring and knowledge of the results.

- * Employees have the right to review the Log and Summary of Occupational Injuries (OSHA no. 200) which the employer must maintain.

The *enforcement* provisions of the OSHAct carry with them many employee rights which serve to increase the effectiveness of oversight inspections by encouraging employees to come forward with information concerning unsafe or unhealthy working conditions without fear of reprisal.

- * An employee has the right to request a special OSHA inspection for specific safety violations or may confer privately with the OSHA inspector during a normal inspection. If OSHA denies the inspection request or decides not to cite the employer for an alleged violation, the

employee must be informed in writing of the reasons.

* An employee has a right to review a copy of any OSHA citation and has rights as an interested party if the citation is contested. This right is satisfied by the employer's duty to post the citation.

* An employee may contest abatement periods specified by OSHA.

To further influence an employee to take action in the case of unsafe working conditions the employee has a right to protection from reprisal through official complaints to OSHA. Finally the employee may even initiate legal action against OSHA if the agency fails to take appropriate action to correct an imminent danger and the employee is injured.

The objective of each of these specific rights is to protect the employee's one primary right to "a place of employment that is free of recognized hazards that are causing or are likely to cause death or serious physical harm." It should be clear that almost all employee rights create a correlative duty by another party (the employer, OSHA, or NIOSH).

2.4 Occupational Safety and Health Standards

OSHA is authorized to promulgate, modify, or revoke standards under the Act. The rules of procedure for legally changing the rules allow ample opportunity

for interested parties to participate in the formulation of new standards. There are normally two phases prior to any rule-making or changes. These are (1) a call for information upon which to base proposed standards (advanced notice of proposed rule-making) and (2) publication in the Federal Register of proposed standards.

Typically an advisory committee of up to 15 members is tasked with development of the necessary standard. The Act allows no more than 270 days from the time of appointment for their recommendations. OSHA then has 60 days within which to publish a proposed rule in the Federal Register. The next 30 days are reserved for public comment. A public hearing must be held if requested. OSHA is then allowed up to 60 days to either publish the new rule or publish the reasons for not enacting the new rule.

A significant percentage of OSHA standards are in fact standards which were developed by other nationally recognized standard-setting organizations. In cases such as these the standards are incorporated in whole or in part by reference and have the force of law. A list of some of these organizations is included as Appendix F.

There is also a provision within the Act for issuing temporary emergency standards. An emergency standard can be valid for up to six months after

publication. During that timeframe OSHA must have followed formal rule-making procedures if the standard is to become permanent.

2.4.1 Variances from the Standards

OSHA standards do not always specify the only safe way to accomplish a task or safeguard an area. In fact it is not uncommon to show that due to technological advances or new inventions there are better methods for protecting workers than those that are required by law. Permanent variances from the standards may be applied for through a formal application process. The most important information to be included is (1) A description of the alternative approach proposed to protect employees including an explanation of how the proposed measures will guarantee a place of employment that is at least as safe and healthful as would be provided if the standard were followed and (2) Certification that the employer has informed his employees of the application and their right to petition for a hearing.

An employer may also apply for an order granting a temporary variance if for some justifiable reason he cannot comply with the applicable standard by the effective date. The situation must be temporary, he must show what has been done

to date, what is being done to correct the situation, employees must be informed, and he must state when he expects to come into compliance with the standard.

An employer may request an interim order authorizing either type of variance until his formal application has been acted upon. Many of the OSHA procedural rules for variances follow the same steps as standard setting including publication in the Federal Register and invitation for public comment. A list of the required information to apply for a temporary or permanent standard variance is provided at Appendix G.

However, before entering the somewhat bureaucratic maze of a variance application employers should consider the following:

Beginning in the early 1980's, OSHA authorized its regional administrators to make "interpretations" of standards that had the effect of becoming variances for individual employers. Such interpretations had no effect on other employers and reflected specific conditions at a particular workplace. OSHA has also been issuing "clarifications" of standards for employers asking for deviation from standards. While granting less than 10 percent of the requests for variances that employers submitted since enforcement began, about eight times as many clarifications have been issued.

(8-24)

CHAPTER III

OSHACT ENFORCEMENT

OSHAct enforcement is accomplished through compliance inspections, citations for standard violations, and monetary penalties. OSHA's ability to enforce the Act has become progressively more effective over time due to legislative action and to policy changes within OSHA.

3.1 Compliance Inspections

The three possible categories of compliance inspection are comprehensive, partial, or records only. OSHA inspections are required by law (for obvious reasons) to be initiated unannounced. This does not however guarantee the CSHO immediate access to the site since the targeted employer has the right to refuse him access. This necessitates that an inspection warrant be obtained. To obtain a warrant OSHA must only show that it is acting properly within its legal authority.

OSHA has developed an order of priority for inspections which is intended to maximize use of limited inspector resources. First priority is given to situations involving imminent danger, with the goal to avert a potential catastrophe. Second priority is given to investigations/inspections of sites where catastrophic or fatal accidents have occurred. Third, fourth, and fifth are employee complaints,

programmed inspections of high-hazard operations and reinspections where violations were previously noted, respectively.

An inspection officially begins the moment the CSHO arrives on site.

There are procedures that will be followed in the normal conduct of an OSHA compliance inspection. The CSHO should be asked for official credentials before proceeding.

As soon as possible, appropriate personnel should be gathered to attend the opening conference. This will include the employer and employee representatives that will accompany the CSHO during the inspection. During the opening conference the CSHO will specify the planned scope of the inspection, request records for review, identify employee complaints that may have triggered the inspection, and answer pertinent questions. The employer is only required to provide access to records that are required to be kept by the Act. Any other documents such as safety meeting minutes are provided at the discretion of the employer. One should consider whether such items tend to draw the inspector's attention to safety problems that may still exist.

The CSHO will proceed with the planned inspection making detailed notes of any violations of the standards or of the general duty clause. Employer conduct during the inspection can be extremely important. Careless comments that indicate

employer awareness of an uncorrected safety hazard can weigh in the classification of the violation as "willful".

The inspector is looking for convincing evidence of an effective safety program in addition to searching for specific violations. General qualities that would be indicative of management commitment to safety in the work place are 1) a program that is comprehensive in nature covering all potential hazards, 2) effective means of communicating safety requirements, 3) effective enforcement, 4) regular training programs, and 5) thorough accident investigations that result in corrective measures being taken. The employer stands a much better chance of a "records only" or "partial" inspection if he demonstrates "good faith" commitment to employee safety (which translates to compliance with OSHA).

3.2 Violations, Citations, and Penalties

Violations of the OSHA standards will be categorized as imminent danger, serious, nonserious, or de minimus. Other issues that must be addressed in the characterization of violations are whether they are willful on the part of the employer, a repeat violation, or the result of failure to abate an unsafe condition that had been previously cited. The overall characterization of the resulting OSHA citation determines the penalties that will be proposed.

3.2.1 Violations

Imminent danger is defined by the Act as "any condition or practice in any place of employment which is such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act." If an imminent danger situation is observed by the CSHO during an inspection he must immediately notify both the employer and the employees exposed to the hazard. The employer may voluntarily abate the imminent danger by removing employees from the danger area until the conditions that create the danger are eliminated. The employer is still subject to citations and penalties.

The inspector does not have the authority to order action by the employer or employees. If the employer does not cooperate then OSHA will obtain a temporary restraining order followed by a permanent injunction against the employer's practices. The way that this scene plays out will certainly affect proposed penalties.

Serious violations differ from imminent danger when it is determined that there is *substantial probability* that death or serious physical harm could result and that the employer knew or should have known of the hazard. OSHA's field

operation manual provides policy guidance for distinguishing between "serious" and "other than serious" violations. Steps in the evaluation include determining the hazards that the standard was intended to prevent, injuries that could be reasonably expected to result from the hazard, whether those injuries meet the criteria of causing death or serious physical harm, and whether the employer knew or should have known of the unsafe or unhealthful condition (8-29). While this requires the use of professional judgement, safety professionals may use objective criteria such as risk assessment codes in arriving at a decision. OSHA policy concerning the latter issue (whether the employer knew or should have known) is simply that if the compliance officer discovered the violation, then the employer had ample opportunity to discover it through the exercise of reasonable diligence.

A *nonserious violation* is one that does relate directly to job safety and health but is unlikely to cause death or serious physical harm. Violations that have no direct effect on health or safety are *de minimus* violations.

The additional characterization of violations as being *willful* or *repeat* is important. Repeat violations are simply cases where the employer was cited for noncompliance with the same standard within the past three years. Factors indicating willfulness on the employers part could be that the violation was intentional, deliberate, or simply showed disregard for safety and health. OSHA

may go one step further when a death results from the violation by establishing a *criminal/willful violation*. In this case a specific standard must be cited rather than the general duty clause.

3.2.2 Citations

Violations that are observed during an inspection must be cited by law. The citation must:

- be issued with reasonable promptness (within 6 months).
- be in writing.
- describe the nature of the violation specifically.
- reference the provision, standard, rule, regulation, or order alleged

to have been violated.

- specify a reasonable time for abatement.

Citations will be sent to the employer by certified mail or delivered personally by the compliance officer.

An employer has the right to contest any material aspect of a citation that he feels is not justified.

If the employer does not contest within 15 working days after receipt of the notice of proposed penalty, the citation and proposed assessment of penalties are deemed to be a final order of the Occupational Safety and Health Review Commission and are

not subject to review by any court or agency and the alleged violation must be corrected within the abatement period specified in the citation (8-21).

The Area Director in receipt of a notice of contest files the case with the Review Commission for a docket number. There may be a lengthy delay for the hearing to occur due to backlogs. The Commission's orders become final 15 days after issuance unless subsequently overridden by a court order. Any person that can establish legal standing as being adversely affected by the order has up to 60 days to file for a review of the order in the U.S. Court of Appeals.

3.2.3 Penalties

The bottom line in enforcement is the ability to affect the employer's purse strings. Until recently the maximum allowable penalties may have seemed trivial to some employers and therefore not provided additional incentive to voluntarily pursue aggressive safety and health programs. The aggravation, inconvenience, and litigation costs were probably more effective as deterrents than the potential penalties.

Two significant events drastically increased the amount of monetary penalties that could be assessed for OSHA violations. In 1986 OSHA re-examined its policy of issuing only one citation for multiple occurrences of the same violation. The agency determined that where "an employer exhibits a willful or reckless

disregard for worker safety and health, the agency could propose an instance-by-instance penalty policy (6-24)." The most significant change came about in the Omnibus Budget Reconciliation Act of 1990 in which Congress mandated a seven-fold increase in civil penalties. This raised the ceiling of penalties for each serious violation to \$7,000 and allowed for discretionary penalties of up to \$7,000 dollars for nonserious violations. Furthermore, penalties of up to \$7,000 per day may be proposed for failures to abate violations within the time period specified on the citation.

Willful or repeated violations may be assessed penalties of up to \$70,000 each with a minimum penalty of \$5,000 for the willful violation. Criminal/willful violations (death of an employee occurred) can result in an additional fine of \$250,000 and imprisonment for up to 6 months for individual employers or a fine of \$500,000 for corporations. Falsifying any documents required by OSHA or submitted to them is punishable by a fine of \$10,000 or 6 months in jail or both.

Clearly the "unadjusted" penalty can be a very large number. OSHA still has provisions to adjust penalties downward based on various parameters. A reduction of up to 20% may be given for an employers "good faith" which is evidenced by observable indications of efforts to comply with the Act. Another 10% reduction may be allowed based on the size of the business. And 20%

reduction is possible based on an employer's past history of compliance and cooperation. Finally the adjusted penalty is further reduced by 50% if the hazard is abated during the abatement period (known as the abatement credit). Abatement credits do not apply to serious violations.

CHAPTER IV

OSHA STANDARDS FOR CONSTRUCTION

4.1 Overview

Building and construction work is both hard and dangerous. To quote from an unidentified source, "There's no job in construction which you could call an easy job. I mean, if you are out there eating dust and dirt for eight, ten hours a day, even if you're not doing anything, it's work. Just being there is..." Construction is recognized by OSHA as a high accident risk industry. If an employer is accomplishing construction work with his own forces, he can require that safe work practices are followed. However, if an outside contractor is hired it is imperative that each party have a complete understanding of all applicable safety regulations and the legal relationships and obligations of the parties to the contract. "The best time to 'think safety' is during the designing and specifying steps- designing safety into the final product, as well as into its construction (8-19)."

Achieving a safe and healthy workplace, one that complies with OSHA rules and regulations, depends on general good practices (refer to 29 CFR 1910) and practices that are designed for a specific industry. A specific industry guide is promulgated for construction by 29 CFR 1926 (See Appendix H for outline of

contents). It applies to general contractors and builders, heavy construction contractors, and special trade contractors.

"Jobsite safety and health programs are required of all employers under OSHA construction standards, including general contractors and all subcontractors, as employee exposure to hazards on a multi-employer worksite may result in citations to each exposing employer or to the employer in the best position to correct the hazard or to ensure its correction (2-737:511)." Variations on this subject have been litigated repeatedly. The decisions consistently uphold that a duty cannot be delegated away. By regulation, a senior member of management is to be assigned the responsibility to establish and maintain the jobsite safety and health program. "Competent persons" will be designated to monitor specific areas of the construction based on the senior manager's assessment of the safety hazards in the project.

A high level of competence and authority are necessary if the competent persons are to be effective. They must be able to identify and predict hazards. They must also have the authority to take action concerning unsafe conditions. This should include but not be limited to 1) prohibiting the use of any tool, machinery, material, or equipment which is not in compliance with safety standards, 2) locking out controls or removing those items from the jobsite,

3) allowing only employees qualified by training or experience to operate equipment or machinery, and 4) instructing employees in all aspects of safety and health applicable to their assigned duties.

During a construction compliance inspection, the CSHO will interview employees about their general knowledge of their rights under OSHA and their knowledge of safety requirements specific to the job in progress. A well organized job-site safety program will go far in diffusing potential problems. A set of construction safety rules put out by the Construction Advanced Foundation's SAFE committee is provided as Appendix I. Since it is common to have construction jobs at numerous or geographically remote sites there are special provisions for how and where required records must be kept. The employer should be careful to ensure that recordkeeping requirements are being fulfilled and that all posting regulations are met.

The construction standards cover almost every imaginable construction situation. One of the significant differences between construction and other industries is the uniqueness of construction projects. This uniqueness does not always lend itself to identical methods of accomplishment for a task. If it becomes apparent that the preferred methods for accomplishing a task meet the intent of the

law but not the letter, then a variance (or clarification, or interpretation) must be requested from OSHA.

In some cases the employer must be knowledgeable of and comply with both the OSHA Act and Environmental Protection Agency (EPA) regulations. This applies to the case of asbestos removal and there are extensive standards regarding methods and procedures. In general, the goal is to reduce the risk of asbestos fiber exposure to the employees doing the work and prevent dispersal of the fibers. "Worker protection typically will require the use of respirators, protective clothing, the establishment of separate changing areas to separate contaminated and uncontaminated clothing, and shower facilities (2-737:453)."

There are many other instances where EPA regulations may pertain to construction due to the many operations that require the use of hazardous chemical substances. Regulations may require specific containment and waste disposal procedures. The Hazard Communication Standard which was expanded to include the construction industry in 1989 specifies employee notification and training requirements pertaining to the chemical hazards to which they are exposed.

Construction poses a wide variety of safety problems. Roofing, concrete and masonry work, highway construction, underground construction, electrical work, and much more contribute to the diverse problems of safety in construction.

There are standards which must be complied with concerning all of them. A heavy dose of common sense combined with adherence to the general duty clause is also requisite.

Due to the nature of construction that often requires multiple contractors on a jobsite at one time it is important to have cooperation between the trades and contractors. Employees can find themselves exposed to hazards created by other contractors and employers can find themselves liable for hazards that they did not create. Some examples of cases that have been litigated and their outcome will be discussed in Chapter V.

4.2 Training Requirements

The employer is responsible for ensuring that his employees have been instructed concerning all hazards to which they will be exposed in the course of their jobs. The instruction must include the nature of the hazard(s), how to recognize and avoid them, precautions to be taken, required personal protective equipment, and emergency measures in case of an accident. There is very specific guidance that must be communicated in training for certain areas of the regulations. For instance, the subject heading "Arc Welding & Cutting" includes the statement that "employers must instruct employees in the safe means of arc welding and

cutting as follows: ...Hot electrode holders must not be dipped in water; to do so may expose the arc welder or cutter to electric shock." It is necessary to read the applicable subject heading to determine if there are specific training requirements.

4.3 Construction Compliance Inspections

OSHA selects sites for inspection which represent a wide range of construction types. Historically, larger jobs have been targeted in order to benefit a greater number of employees that may be exposed to hazards. Selection criteria includes project dollar value, square footage, nature of the work, and duration.

The inspector will contact the general contractor's representative upon arrival at the site and advise him of the purpose of the visit. If there are subcontractors, he will be asked to identify them and to notify their representatives to assemble for the opening conference. It is noteworthy that any contractor can be cited for deficiencies in common services such as sanitation, availability of drinking water, or first aid even if contractually they are to be provided by someone else.

The walkaround may be complicated by the presence of too many employer and employee representatives. Their rights to accompany the inspector cannot be denied, but the participants may voluntarily agree to be represented by a limited number of participants. Other procedural aspects of the inspection will follow the same guidelines of any other workplace compliance inspection including the closing

conference at which the CSHO will reveal any apparent violations that were observed.

During the years 1985 through 1988 the construction accident rate was just over 7 accidents per 100 full time workers, according to a study by OSHA and the Bureau of Labor Statistics. The most common accident causes were overexertion, being hit by moving objects, falls, and slips/trips. The most common injuries that resulted were strains and sprains, cuts, lacerations, and punctures, with the back being the part of the body most often affected. Other conclusions that were drawn from the data were 1) the greatest number of accidents occur on Monday, the fewest on Friday, 2) working surfaces and metal objects are major sources of construction accidents, 3) employees with less than 1 year experience have the most accidents, and 4) a higher percentage of accidents occur from June to October than during the remaining months of the year (9-7).

According to OSHA the single most violated rule industry-wide in 1985 was the requirement that employers involved in construction must use effective electrical circuit protection. The second and third most common citations involved failure to comply with posting and recordkeeping requirements. Violations related to head protection in construction, machine guarding, and openings in floors or platforms are also among the top 10 most frequently cited violations (2-711:201).

CHAPTER V

LEGAL CONCEPTS

The court dockets are full with cases stemming from OSHA violations.

Contested OSHA citations are first reviewed by administrative law judges of the Review Commission. If the decision at the Commission level upholds the OSHA action, the case may be appealed to a U.S. Court of Appeals. The court will either affirm the previous decision, vacate the decision, or remand the case back to the OSHRC for further action. The logic behind the judge's decision often provides insight into the interpretation of law. Therefore a certain amount of benefit is derived from analyzing specific issues and specific cases.

This chapter will cover some of the legal doctrines and principles that have developed from the body of law known as "case law". The text of each decision is potentially precedent setting for future cases with similar circumstances. A representative sample of OSHA cases are selected for presentation.

5.1 OSHA Actions Affirmed

In *Secretary of Labor v. Thomas Lindstrom & Co.*, the subject of the citation was "failure to provide head protection". The employer's argument that employee's should share in the fines since they refused to wear the hardhats that were provided was rejected. The court found that under the Act, the employer has

the duty to insure proper protective gear is supplied, to instruct employees in its proper use, and to enforce its use. This duty cannot be shifted to the employees (2-14 OSHC 1142).

In construction, it is common to try to shift responsibility to another contractor on site. Beach Concrete Co. showed evidence that it had repeatedly complained to the general contractor about safety deficiencies on site. Nevertheless, the citation for failure to provide either ground-fault circuit protection or an assured equipment grounding program was affirmed "because employers cannot avoid obligation to provide safe working conditions for employees by entering into contract relieving it of responsibility (2-268)." Such a contractual provision would be illegal and unenforceable. Another version of this legal argument used by employer's is to say that they neither created nor controlled the hazardous condition. This argument will be unsuccessful to the extent that the employer failed to protect its employees by alternate means.

Many employers use the *impossibility of performance* defense to contest citations. It is well established by the courts that infeasibility, not inconvenience, constitutes a defense for failure to provide something required by law. The employer used this defense in the case of National Engineering Co. v. U.S. in which he disputed citations for failure to guard floor openings. The OSHA citation

was affirmed by showing four viable methods of providing guard rails. Furthermore, the employer could not show that an alternate method for protecting the employees had been utilized.

In the case of Department of Labor, OSHA v. Hern Iron Works the court relied on the *collateral bar rule* to uphold a criminal contempt of court ruling. The issue before the court was whether Hern Iron could be held in contempt for refusing to comply with a search warrant that was improperly obtained. The text of the decision states, "In brief, the collateral bar rule permits a judicial order to be enforced through criminal contempt even though the underlying decision may be incorrect and even unconstitutional (4-14 OSHC 1121)."

The concept of *reasonable diligence* appears in many cases. In the case of Secretary of Labor v. G.Q. Drywall it was undisputed that open sides of scaffold were not guarded. The employer disputed his knowledge of the hazard. It was found that the employer, with exercise of reasonable diligence could have been aware of the violation and therefore the citation was upheld.

An employer disputed OSHA's authority to demand access to noise exposure records since the requirement is based on 29 CFR 1910.95 and not the OSHA Act. This argument was rejected because "in promulgating 1910.95 (the)

secretary acted on authority of OSH Act, thereby making employer's obligation to maintain such records flow from the OSH Act (4-13 OSHC 215)."

5.2 OSHA Actions Vacated

Violations of specific standards are not as easy to dispute as procedural issues and administrative requirements. The facts will usually speak for themselves with regard to whether an unsafe act was committed. Employers should be aware that even where they successfully contest an OSHA action, attorney's fees due to a hearing by the OSHRC may not be recoverable under the Equal Access to Justice Act (EAJA). Detailed precedent is set in *Perry vs. OSHRC*. The court "narrowly construed" Congress' intent in passing the EAJA as "inapplicable to purely adjudicatory government agencies, such as the Commission" (4-14 OSHC 1113).

OSHA citations have been vacated or significantly reduced in severity in many instances where the employer is able to make a sound case. Some of the arguments that have been used successfully in the past are

- | | |
|--|-------------------------------------|
| * OSHA failed to prove violation | *OSHA failed to prove hazard |
| *The violation was not preventable | *Compliance poses a greater hazard |
| *The hazard is not a recognized hazard | *The standard does not apply |
| *The standard is not enforceable | *OSHA made procedural mistakes |
| *The penalty is not appropriate | *The abatement date is unreasonable |

There are many cases where OSHA may fail to show adequate proof that a standard was violated. In other cases OSHA may inadvertently fail to follow required procedures. A citation may be vacated in either instance. In the latter case the employer may have to show how he was prejudiced by the procedural error to prevail.

Howard P. Foley Company successfully used the argument that the violation was not preventable in a 1977 case where a journeyman electrician was electrocuted. In this case it was shown that the company had a thorough safety program that was diligently enforced. At the time of the accident the electrician had a pocket circuit tester with him, which he idiosyncratically neglected to use. Every aspect of the employer's safety program was subject to scrutiny. The Review Commission ruled that the employer's safety program was adequate and therefore the violation was not preventable.

A roofing company showed that wearing safety belts while hot tarring a roof would create a far greater tripping hazard to employees than the fall hazard. Compliance would pose the greater hazard because employees often carried materials with temperatures as high as 350 degrees F (2-769:462).

A federal appeals court ruled that a citation for alleged trenching violations was unenforceable due to proven disagreement within the department of labor as to

the interpretation of the standard in question. In vacating the citation, the court relied upon precedent set in *Diamond Roofing v. Secretary of Labor*, that "an OSHA standard must give an employer fair warning of the conduct it prohibits or requires, and it must provide a reasonably clear standard of culpability...(2-769:642)."

Occupational Safety and Health News includes briefs of recent OSHA actions. The effect of increased penalty levels is immediately obvious in cases cited. A construction contractor in Pennsylvania was cited for numerous scaffolding related violations and penalties were proposed in the amount of \$60,000. Fines in the amount of \$50,000 dollars were proposed for a contractor improperly removing asbestos floor tiles. Recommendations at these levels are no longer isolated. The cases will undoubtedly be played out through the appeals procedures.

By contesting an OSHA violation, an employer stands the chance of having the citation vacated or modified, having penalty levels reduced as excessive, and of delaying future OSHA actions against the employer. These provide high incentive to contest an OSHA citation. In addition, if the citation is the result of an accident, there may be civil damage suits brought against the employer. If the employer does not contest the citation, this may be used against him as an admittance of guilt.

CHAPTER VI

CONCLUSION

It is certainly clear from the abundance of reference material on the subject of safety that there is ample justification and need for safety professionals. Commitment to safety and health programs may be founded on fear, morality, cost to benefit analysis, or other factors. Whatever the foundation, OSHA is now in the position to assist and insist that the health and safety of employees be protected.

Each employer must make their own decisions concerning their approach to safety and their approach to OSHA. The decision to demand or not to demand a warrant for an inspection should be based on the circumstances. The advice of legal counsel that specializes in the area of industrial safety might be well worth the investment in time and money. However, this should not be a choice made at the last minute but the result of advance preparation. The decision whether to share safety related records that are not mandatory with the inspector would also be a matter of prudent decision-making. After the decision is made, the employer will have to accept the consequences.

Safe and healthful work practices are becoming integral to doing business. This is certainly not the case at all places of work but the mechanisms are in place to gradually identify the violators of the OSHAct and hold them accountable.

Safety provisions are constantly the subject of rethinking both administratively and technically.

...Rethinking includes new concepts of safety's role in organizations, its objectives, and its practices. Rather than a defensive or constraining control function, modern safety practitioners are viewing safety as a congruent function in an organization or activity, contributing to its overall mission, achievement, and success. This differs markedly from the traditional defensive goals of safety, such as accident prevention, standards compliance, or loss control. (1-3)

Viewing safety in this fashion does not threaten or diminish the emphasis on the latter three objectives. It does however elevate safety to a status within organizations that is seen as essential rather than a hindrance to mission accomplishment.

There are five reasons suggested for preventing accidents and occupational illnesses in the Accident Prevention Manual for Industrial Operations. They are:

- 1) To prevent needless destruction of life and health.
- 2) Failure to take necessary precautions against predictable accidents and occupational illnesses involves moral responsibility for those accidents and illnesses.
- 3) Accidents and occupational illnesses severely limit efficiency and productivity.
- 4) Accidents and occupational illnesses produce far-reaching social harm.

5) The safety movement has demonstrated that its techniques are effective in reducing accident rates and promoting efficiency (8-2).

It is said that 90% of compliance with occupational safety and health law is common sense. The other 10% requires knowledge of the OSHAct, standards specific to the industry or operations in question, and case law precedents that establish the judicial interpretations of the OSHAct.

The research and preparation of this report has been a valuable learning experience for the author. The initial objective of gaining an appreciation and respect for safety requirements has been more than satisfied. Attempting to keep up with changes in safety legislation, policies, practices, and safety technology is a full time job but there are resources available that make the task easier. Just knowing what is available is half the battle. The knowledge gained will be an asset in all future assignments with the Navy.

ACCIDENT INVESTIGATION REPORT

CASE NUMBER

COMPANY _____ ADDRESS _____

DEPARTMENT _____ LOCATION (if different from mailing address) _____

1. NAME of INJURED		2. SOCIAL SECURITY NUMBER		3. SEX ☐ M ☐ F	4. AGE	5. DATE of ACCIDENT
6. HOME ADDRESS _____		7. EMPLOYEE'S USUAL OCCUPATION			8. OCCUPATION at TIME of ACCIDENT	
11. EMPLOYMENT CATEGORY ☐ Regular, full-time ☐ Temporary ☐ Nonemployee ☐ Regular, part-time ☐ Seasonal		9. LENGTH of EMPLOYMENT ☐ Less than 1 mo. ☐ 6 mos. to 5 yrs. ☐ 1-5 mos. ☐ More than 5 yrs.			10. TIME in OCCUP. at TIME of ACCIDENT ☐ Less than 1 mo. ☐ 6 mos. to 5 yrs. ☐ 1-5 mos. ☐ More than 5 yrs.	
13. NATURE of INJURY and PART of BODY _____		12. CASE NUMBERS and NAMES of OTHERS INJURED in SAME ACCIDENT _____ _____				
14. NAME and ADDRESS of PHYSICIAN _____			16. TIME of INJURY A. _____ A.M. _____ P.M. B. Time within shift C. Type of shift		17. SEVERITY of INJURY ☐ Fatality ☐ Lost workdays—days away from work ☐ Lost workdays—days of restricted activity ☐ Medical treatment ☐ First aid ☐ Other, specify _____	
15. NAME and ADDRESS of HOSPITAL _____						
18. SPECIFIC LOCATION of ACCIDENT _____ ON EMPLOYER'S PREMISES? ☐ Yes ☐ No			19. PHASE OF EMPLOYEE'S WORKDAY at TIME of INJURY ☐ During rest period ☐ Entering or leaving plant ☐ During meal period ☐ Performing work duties ☐ Working overtime ☐ Other _____			
20. DESCRIBE HOW the ACCIDENT OCCURRED _____ _____ _____ _____						
21. ACCIDENT SEQUENCE. Describe in reverse order of occurrence events preceding the injury and accident. Starting with the injury and moving backward in time, reconstruct the sequence of events that led to the injury A. Injury Event _____ B. Accident Event _____ C. Preceding Event #1 _____ D. Preceding Event #2, #3, etc. _____ _____						

22 TASK and ACTIVITY at TIME of ACCIDENT A General type of task _____ B Specific activity _____ C Employee was working ☐ Alone ☐ With crew or fellow worker ☐ Other, specify _____	23 POSTURE of EMPLOYEE _____ 24 SUPERVISION at TIME of ACCIDENT ☐ Directly supervised ☐ Not supervised ☐ Indirectly supervised ☐ Supervision not feasible
25. CAUSAL FACTORS. Events and conditions that contributed to the accident. Include those identified by use of the Guide for Identifying Causal Factors and Corrective Actions _____ _____ _____ _____ _____ _____ _____ _____ _____ _____	
26. CORRECTIVE ACTIONS. Those that have been, or will be, taken to prevent recurrence. Include those identified by use of the Guide for Identifying Causal Factors and Corrective Actions _____ _____ _____ _____ _____ _____ _____ _____ _____ _____	
PREPARED BY _____ TITLE _____ DEPARTMENT _____ DATE _____ Developed by the National Safety Council	APPROVED _____ TITLE _____ DATE _____ APPROVED _____ TITLE _____ DATE _____

A. FOR LOSS OF MEMBER—TRAUMATIC OR SURGICAL

(For loss of use of member, see footnote**)

Fingers, Thumb, and Hand

Amputation Involving All or Part of Bone**

	Thumb	Index	Middle	Ring	Little
Distal phalange	300	100	75	60	50
Middle phalange		200	150	120	100
Proximal phalange ...	600	400	300	240	200
Metacarpal	900	600	500	450	400
Hand at wrist	3,000				

Toe, Foot, and Ankle

Amputation Involving All or Part of Bone**	Great Toe	Each of Other Toes
Distal phalange	150	35
Middle phalange		75
Proximal phalange	300	150
Metatarsal	600	350
Foot at ankle	2,400	

Arm

Any point above*** elbow, including shoulder joint	4,500
Any point above wrist at or below elbow	3,600

Leg

Any point above*** knee	4,500
Any point above ankle and at or below knee	3,000

B. IMPAIRMENT OF FUNCTION

One eye (loss of sight), whether or not there is sight in the other eye	1,800
Both eyes (loss of sight), in one accident	6,000
One ear (complete industrial loss of hearing), whether or not there is hearing in the other ear	600
Both ears (complete industrial loss of hearing), in one accident	3,000
Unrepaired hernia (for repaired hernia, use actual days lost)	50

C. FATAL OR PERMANENT TOTAL DISABILITY

.....6,000

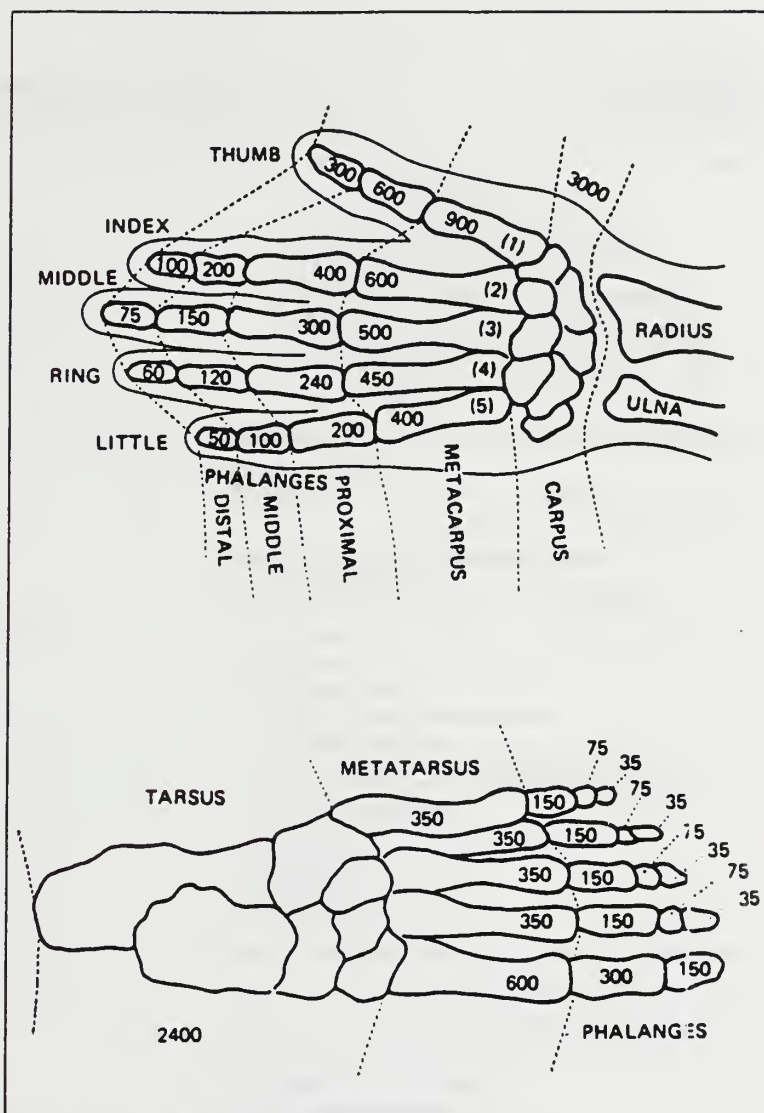


Chart of scheduled charges for hand (above) and foot (below). Numbers on the bones are the charges (in days) for loss involving part or all of the bone. (Also see Table 6-A.) (Reprinted with permission from American National Standards Institute.)

Footnotes to Table

*Source: ANSI Z16.1, *Method of Recording and Measuring Work Injury Experience*.

**For loss of use, without amputation, use a percentage of the scheduled charge corresponding to the loss of use as determined by the physician authorized to treat the case. If the bone is not involved, use actual days lost and classify as temporary total disability.

***The term "above" when applied to the arm means toward the shoulder, and when applied to the leg means toward the hip.

CHART OF SCHEDULED CHARGES
(REPRESENTATIVE OF LOSS IN EARNING ABILITY)

SERVICE NO. (NSC)

► 1-9 _____

CASE OR FILE NO.

► 10-15 _____

SUPPLEMENTARY RECORD OF
OCCUPATIONAL INJURIES AND ILLNESSESOSHA No. 101 NSC revision
(Meets OSHA requirements
when instruction 1. has
been followed.)

THIS REPORT IS

► 16. 1 ☐ First report 2 ☐ Revised report

EMPLOYER

1. NAME _____

2. MAIL ADDRESS _____

3. LOCATION, if different
from mail address _____

INJURED OR ILL EMPLOYEE

4. NAME _____

SOCIAL SECURITY NO. _____

► EMPLOYEE NO. 17-24 _____

5. HOME ADDRESS _____

► 6. AGE 27-28 _____

► 7. SEX 29. 1 ☐ Male 2 ☐ Female

► 8. OCCUPATION (specify) _____

30-31. 01 ☐ Manager, official, proprietor02 ☐ Professional, technical03 ☐ Foreman, supervisor04 ☐ Sales worker05 ☐ Clerical worker06 ☐ Craftsman—construction07 ☐ Craftsman—other08 ☐ Machinist09 ☐ Mechanic10 ☐ Operative (production worker)11 ☐ Motor vehicle driver12 ☐ Laborer13 ☐ Service worker14 ☐ Agricultural worker15 ☐ Other16 ☐ Unknown

9. DEPARTMENT _____

(Enter the name of department or division in which
the injured person is regularly employed.)

CLASSIFICATION OF CASE

A. INJURY OR ILLNESS (see code on Log, OSHA No. 100)

- 22. 1 ☐ Injury (10)
- 2 ☐ Occupational skin disease or disorder (21)
- 2 ☐ Dust disease of the lungs (pneumoconiosis) (22)
- 4 ☐ Respiratory conditions due to toxic agents (23)
- 5 ☐ Poisoning (systemic effects of toxic materials) (24)
- 6 ☐ Disorder due to physical agents
(other than toxic materials) (25)
- 7 ☐ Disorder due to repeated trauma (26)
- 8 ☐ All other occupational illnesses (29)

B. EXTENT OF INJURY OR ILLNESS

- 23. 1 ☐ Fatality
- 2 ☐ Lost workday case
- 2 ☐ Nonfatal case without lost workdays

► C. Number of workdays lost 34-36 _____

D. Permanently transferred or terminated

► 37. 1 ☐ Yes 2 ☐ No

INSTRUCTIONS

1. Type or print the narrative where requested.
2. Check the one box which most clearly describes each narrative statement.
3. See also original OSHA No. 101 for more details.
4. Complete form in duplicate. Retain original.
Mail duplicate to: National Safety Council,
425 N. Michigan Ave., Chicago IL 60611.



THE ACCIDENT OR EXPOSURE TO OCCUPATIONAL ILLNESS

10. PLACE OF ACCIDENT
OR EXPOSURE
(mail address) _____

11. WHERE DID ACCIDENT OR EXPOSURE OCCUR?

a. On employer premises

► 38. 1 ☐ Yes 2 ☐ No 3 ☐ Unknown

b. Place (specify) _____

- 39-40. 01 ☐ Office
- 02 ☐ Plant, mill
- 03 ☐ Shipping, receiving, warehouse
- 04 ☐ Maintenance shop
- 05 ☐ General or public area of employer premises
(corridor, washroom, lunchroom, parking lot, etc.)
- 06 ☐ Retail establishment
(store, restaurant, gasoline station, etc.)
- 07 ☐ Farm
- 08 ☐ Motor vehicle accident
- 09 ☐ Other
- 10 ☐ Unknown

12. WHAT WAS THE EMPLOYEE DOING WHEN INJURED? (Be specific)

a. Task performed at time of accident

- 41-42. 01 ☐ Operating machine
- 02 ☐ Operating hand tool (power or nonpower)
- 03 ☐ Materials handling
- 04 ☐ Maintenance & repair—machinery
- 05 ☐ Maintenance & repair—building & equipment
- 06 ☐ Motor vehicle driver, operator or passenger
- 07 ☐ Office and sales tasks, except above
- 08 ☐ Service tasks, except above
- 09 ☐ Other
- 10 ☐ Not performing task
- 11 ☐ Unknown

b. Activity at time of accident

- 43-44. 01 ☐ Climbing
- 02 ☐ Driving
- 03 ☐ Jumping
- 04 ☐ Kneeling
- 05 ☐ Lying down
- 06 ☐ Lifting
- 07 ☐ Reaching, stretching
- 08 ☐ Riding
- 09 ☐ Running
- 10 ☐ Sitting
- 11 ☐ Standing
- 12 ☐ Walking
- 13 ☐ Other
- 14 ☐ Unknown

13. HOW DID THE ACCIDENT OCCUR? (Describe fully the events)

a. AGENCY. (Object or substance involved)

ACCIDENT AGENCY (1st column). The first object or substance involved in accident sequence.

INJURY AGENCY (2nd column). The agency inflicting the injury. See also section 15.

(Example: Worker fell from ladder and struck head on machine. Check "Ladder" under accident and check "Machine" under injury.)

ACCIDENT	INJURY	(Check one box in each column)
45-46. 01 ☐	47-48. 01 ☐	Machine
03 ☐	02 ☐	Conveyor, elevator, hoist
03 ☐	03 ☐	Vehicle
04 ☐	04 ☐	Electrical apparatus
05 ☐	05 ☐	Hand tool
06 ☐	06 ☐	Chemical
07 ☐	07 ☐	Working surface, bench, table, etc.
08 ☐	08 ☐	Floor, walking surface
09 ☐	09 ☐	Bricks, rocks, stones
10 ☐	10 ☐	Box, barrel, container (empty or full)
11 ☐	11 ☐	Door, window, etc.
12 ☐	12 ☐	Ladder
13 ☐	13 ☐	Lumber, woodworking materials
14 ☐	14 ☐	Metal
15 ☐	15 ☐	Stairway, steps
16 ☐	16 ☐	Other
17 ☐	17 ☐	Unknown
18 ☐	18 ☐	None

b. ACCIDENT TYPE. (First event in the accident sequence)

49-50. 01 ☐ Fall from elevation

03 ☐ Fall on same level

03 ☐ Struck against

04 ☐ Struck by

05 ☐ Caught in, under or between

06 ☐ Rubbed or abraded

07 ☐ Bodily reaction

08 ☐ Overexertion

09 ☐ Contact with electrical current

10 ☐ Contact with temperature extremes

11 ☐ Contact with radiations, caustics, toxic and noxious substances

12 ☐ Public transportation accident

13 ☐ Motor vehicle accident

14 ☐ Other

15 ☐ Unknown

This space may be used for additional information.

OCCUPATIONAL INJURY OR ILLNESS

14. DESCRIBE THE INJURY OR ILLNESS in detail and indicate the part of the body affected.

a. NATURE OF INJURY OR ILLNESS. (Check most serious one)

51-52. 01 ☐ Amputation

03 ☐ Burn and scald (heat)

03 ☐ Burn (chemical)

04 ☐ Concussion

05 ☐ Crushing injury

06 ☐ Cut, laceration, puncture, abrasion

07 ☐ Fracture

08 ☐ Hernia

09 ☐ Bruise, contusion

10 ☐ Occupational illness

11 ☐ Sprain, strain

12 ☐ Other

b. PART OF BODY. (Check most serious one)

53-54. 01 ☐ Eyes

02 ☐ Head, face, neck

03 ☐ Back

04 ☐ Trunk (except back, internal)

05 ☐ Arm

06 ☐ Hand and wrist

07 ☐ Fingers

08 ☐ Leg

09 ☐ Feet and ankles

10 ☐ Toes

11 ☐ Internal and other

15. NAME THE OBJECT OR SUBSTANCE WHICH DIRECTLY INJURED THE EMPLOYEE. Also check one box in Injury column under 13e.

16. DATE OF INJURY OR INITIAL DIAGNOSIS OF OCCUPATIONAL ILLNESS.

a. MONTH

55-56. 01 ☐ Jan. 07 ☐ July

02 ☐ Feb. 08 ☐ Aug.

03 ☐ March 09 ☐ Sept.

04 ☐ April 10 ☐ Oct.

05 ☐ May 11 ☐ Nov.

06 ☐ June 12 ☐ Dec.

b. DATE OF MONTH

57-58 _____

17. DID EMPLOYEE DIE?

59. 1 ☐ Yes Date of Death _____

2 ☐ No

OTHER

18. NAME AND ADDRESS OF PHYSICIAN

19. IF HOSPITALIZED, NAME AND ADDRESS OF HOSPITAL

DATE OF REPORT _____

PREPARED BY _____

OFFICIAL POSITION _____

JOB SAFETY & HEALTH PROTECTION

The Occupational Safety and Health Act of 1970 provides job safety and health protection for workers by promoting safe and healthful working conditions throughout the Nation. Requirements of the Act include the following:

Employers

All employers must furnish to employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to employees. Employers must comply with occupational safety and health standards issued under the Act.

Employees

Employees must comply with all occupational safety and health standards, rules, regulations and orders issued under the Act that apply to their own actions and conduct on the job.

The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor has the primary responsibility for administering the Act. OSHA issues occupational safety and health standards, and its Compliance Safety and Health Officers conduct jobsite inspections to help ensure compliance with the Act.

Inspection

The Act requires that a representative of the employer and a representative authorized by the employees be given an opportunity to accompany the OSHA inspector for the purpose of aiding the inspection.

Where there is no authorized employee representative, the OSHA Compliance Officer must consult with a reasonable number of employees concerning safety and health conditions in the workplace.

Complaint

Employees or their representatives have the right to file a complaint with the nearest OSHA office requesting an inspection if they believe unsafe or unhealthful conditions exist in their workplace. OSHA will withhold, on request, names of employees complaining.

The Act provides that employees may not be discharged or discriminated against in any way for filing safety and health complaints or for otherwise exercising their rights under the Act.

Employees who believe they have been discriminated against may file a complaint with their nearest OSHA office within 30 days of the alleged discrimination.

Citation

If upon inspection OSHA believes an employer has violated the Act, a citation alleging such violations will be issued to the employer. Each

citation will specify a time period within which the alleged violation must be corrected.

The OSHA citation must be prominently displayed at or near the place of alleged violation for three days, or until it is corrected, whichever is later, to warn employees of dangers that may exist there.

Proposed Penalty

The Act provides for mandatory penalties against employers of up to \$1,000 for each serious violation and for optional penalties of up to \$1,000 for each nonserious violation. Penalties of up to \$1,000 per day may be proposed for failure to correct violations within the proposed time period. Also, any employer who willfully or repeatedly violates the Act may be assessed penalties of up to \$10,000 for each such violation.

Criminal penalties are also provided for in the Act. Any willful violation resulting in death of an employee, upon conviction, is punishable by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both. Conviction of an employer after a first conviction doubles these maximum penalties.

Voluntary Activity

While providing penalties for violations, the Act also encourages efforts by labor and management, before an OSHA inspection, to reduce workplace hazards voluntarily and to develop and improve safety and health programs in all workplaces and industries. OSHA's Voluntary Protection Programs recognize outstanding efforts of this nature.

Such voluntary action should initially focus on the identification and elimination of hazards that could cause death, injury, or illness to employees and supervisors. There are many public and private organizations that can provide information and assistance in this effort, if requested. Also, your local OSHA office can provide considerable help and advice on solving safety and health problems or can refer you to other sources for help such as training.

Consultation

Free consultative assistance, without citation or penalty, is available to employers, on request, through OSHA supported programs in most State departments of labor or health.

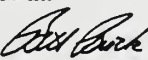
More Information

Additional information and copies of the Act, specific OSHA safety and health standards, and other applicable regulations may be obtained from your employer or from the nearest OSHA Regional Office in the following locations:

Atlanta, Georgia
Boston, Massachusetts
Chicago, Illinois
Dallas, Texas
Denver, Colorado
Kansas City, Missouri
New York, New York
Philadelphia, Pennsylvania
San Francisco, California
Seattle, Washington

Telephone numbers for these offices, and additional area office locations, are listed in the telephone directory under the United States Department of Labor in the United States Government listing.

Washington, D.C.
1985
OSHA 2203


William E. Brock, Secretary of Labor
U.S. Department of Labor
Occupational Safety and Health Administration



Under provisions of Title 29, Code of Federal Regulations, Part 1903.2(a)(1) employers must post this notice (or a facsimile) in a conspicuous place where notices to employees are customarily posted.

OSHA POSTER

Employee rights

Although the employee has the legal duty to comply with all the standards and regulations issued under the OSHA Act, there are many employee rights that are also incorporated in the Act. Since these rights may affect labor relations as well as labor negotiations, employers as well as employees should be aware of the employee rights contained in the Act. Employee rights fall into three main areas and are related to (1) standards, (2) access to information, and (3) enforcement.

With respect to standards:

1. Employees may request OSHA to begin proceedings for adoption of a new standard or to amend or revoke an existing one.
2. Employees may submit written data or comments on proposed standards and may appear as an interested party at any hearing held by OSHA.
3. Employees may file written objections to a proposed federal standard and/or appeal the final decision of OSHA.
4. Employees must be informed when an employer applies for a variance of a promulgated standard.
5. Employees must be afforded the opportunity to participate in a variance hearing as an interested party and have the right to appeal OSHA's final decision.

With respect to access to information:

1. Employees have the right to information from the employer regarding employee protections and obligations under the Act and to review appropriate OSHA standards, rules, regulations, and requirements that the employer should have available at the workplace.
2. Affected employees have a right to information from the employer regarding the toxic effects, conditions of exposure, and precautions for safe use of all hazardous materials in the establishment by means of labeling or other forms of warning where such information is prescribed by a standard.
3. If employees are exposed to harmful materials in excess of levels set by the standards, the affected employees must be so informed by the employer and the employer must also inform the employees thus exposed what corrective action is being taken.
4. If a compliance safety and health officer determines that an alleged imminent danger exists, he must inform the affected employees of the danger and that he is recommending that relief be sought by court action if the imminence of such danger is not eliminated.
5. Upon request, employees must be given access to records of their history of exposure to toxic materials or harmful physical agents that are required to be monitored or measured and recorded.
6. If a standard requires monitoring or measuring hazardous materials or harmful physical agents, employees must be given the opportunity to observe such monitoring or measuring.
7. Employees have the right of access to (1) the list of toxic materials published by NIOSH, (2) criteria developed by NIOSH describing the effects of toxic materials or harmful

physical agents, and (3) industrywide studies conducted by NIOSH regarding the effects of chronic, low-level exposure to hazardous materials.

8. On written request to NIOSH, employees have the right to obtain the determination of whether or not a substance found or used in the establishment is harmful.
9. Upon request, the employees should be allowed to review the Log and Summary of Occupational Injuries (OSHA No. 200) at a reasonable time and in a reasonable manner.

With respect to enforcement:

1. Employees have the right to confer in private with the compliance safety and health officer and to respond to questions from the CSO, in connection with an inspection of an establishment.
2. An authorized employee representative must be given an opportunity to accompany the compliance officer during an inspection for the purpose of aiding such inspection. (This is commonly known as the "walk-around" provision.) Also, an authorized employee has the right to participate in the opening and closing conferences during the inspection.
3. An employee has the right to make a written request to OSHA for a special inspection if the employee believes a violation of a standard threatens physical harm, and the employee has the right to request OSHA to keep his identity confidential.
4. If an employee believes any violation of the Act exists, he has the right to notify OSHA or a compliance officer in writing of the alleged violation, either before or during an inspection of the establishment.
5. If a request is made for a special inspection and it is denied by OSHA, the employee must be notified in writing by OSHA, together with the reasons, that the complaint was not valid. The employee has the right to object to such a decision and may request a hearing by OSHA.
6. If a written complaint concerning an alleged violation is submitted to OSHA and the compliance officer responding to the complaint fails to cite the employer for the alleged violation, OSHA must furnish the employee or his authorized representative a written statement setting forth the reasons for its final disposition.
7. If OSHA cites an employer for a violation, employees have the right to review a copy of the citation which must be posted by the employer at or near the place where the violation occurred.
8. Employees have the right to appear as an interested party or to be called as a witness in a contested enforcement matter before the Occupational Safety and Health Review Commission.
9. If OSHA arbitrarily or capriciously fails to seek relief to counteract an imminent danger and an employee is injured as a result, that employee has the right to bring action against OSHA for relief as may be appropriate.
10. An employee has the right to file a complaint to OSHA within 30 days if he believes he has been discriminated against because he asserted his rights under the Act.
11. An employee has the right to contest the abatement period fixed in the citation issued to his employer by notifying the OSHA Area Director that issued the citation within 15 working days of the issuance of the citation.

OSHA standards incorporate by reference other standards adopted by standards-producing organizations. Standards incorporated by reference in OSHA standards in whole or in part include, but are not limited to, standards adopted by the following standards-producing organizations:

- American Conference of Governmental Industrial Hygienists
- American National Standards Institute
- American Petroleum Institute
- American Society of Agricultural Engineers
- American Society of Mechanical Engineers
- American Society for Testing and Materials
- American Welding Society
- Compressed Gas Association
- Crane Manufacturers Association of America, Inc.
- Institute of Makers of Explosives
- National Electrical Manufacturers Association
- National Fire Protection Association
- National Plant Food Institute
- National Institute for Occupational Safety and Health
- Society of Automotive Engineers
- The Fertilizer Institute
- Underwriters Laboratories Inc.
- U.S. Department of Commerce

Temporary Variance applications must contain at least the following:

1. Name and address of the applicant
2. Address(es) of the place(s) of employment involved
3. Identification of the standard from which the applicant seeks a variance
4. A representation by the applicant that he is unable to comply with the standard and a detailed statement of reasons therefor
5. A statement of the steps the applicant has taken and will take, with dates, to protect employees against the hazard covered by the standard
6. A statement of when the applicant expects to be able to comply with the standard and what steps he has taken, with dates, to come into compliance with the standard
7. A certification that he has informed his employees of the application. A description of how employees have been informed is to be included in the certification. Information to employees must also inform them of their right to petition for a hearing

Permanent Variance applications must contain at least the following:

1. Name and address of the applicant
2. Address(es) of the place(s) of employment involved
3. A description of the countermeasures used or proposed to be used by the applicant
4. A statement showing how such countermeasures would provide a place of employment which is as safe and healthful as that required by the standard for which the variance is sought
5. Certification that he has informed his employees of the application
6. Any request for a hearing
7. A description of how employees were informed of the application and of their right to petition for a hearing

29 CFR 1910
OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subparts

C	— Access to Employee Exposure and Medical Records	M	— Compressed Gas and Compressed Air Equipment
D	— Walking-Working Surfaces	N	— Materials Handling and Storage
E	— Means of Egress	O	— Machinery and Machine Guarding
F	— Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms	P	— Hand and Portable Powered Tools and Other Hand-Held Equipment
G	— Occupational Health and Environmental Control	Q	— Welding, Cutting, and Brazing
H	— Hazardous Materials	R	— Special Industries
I	— Personal Protective Equipment	S	— Electrical
J	— General Environmental Controls	T	— Commercial Diving Operations
K	— Medical and First Aid	Z	— Toxic and Hazardous Substances
L	— Fire Protection		

29 CFR 1926
STANDARDS FOR THE CONSTRUCTION INDUSTRY

Subparts

C	— General Safety and Health Provisions	O	— Motor Vehicles, Mechanized Equipment, and Marine Operations
D	— Occupational Health and Environmental Controls	P	— Excavations, Trenching, and Shoring
E	— Personal Protective and Lifesaving Equipment	Q	— Concrete, Concrete Forms, and Shoring
F	— Fire Protection and Prevention	R	— Steel Erection
G	— Signs, Signals, and Barricades	S	— Tunnels and Shafts, Caissons, Cofferdams, and Compressed Air
H	— Materials Handling, Storage, Use and Disposal	T	— Demolition
I	— Tools—Hand and Power	U	— Blasting and Use of Explosives
J	— Welding and Cutting	V	— Power Transmission and Distribution
K	— Electrical	W	— Rollover Protection Structures; Overhead Projection
L	— Ladders and Scaffolding		
M	— Floors and Wall Openings and Stairways		
N	— Cranes, Derricks, Hoists, Elevators, and Conveyors		

COMPANY SAFETY RULES

All Employees Will Abide By The Following Rules:

1. Report unsafe conditions to your immediate supervisor.
 2. Promptly report all injuries to your immediate supervisor.
 3. Wear hard hats on the jobsite at all times.
 4. Use eye and face protection where there is danger from flying objects or particles, such as when grinding, chipping, burning and welding, etc.
 5. Dress properly. Wear appropriate work clothes, gloves, and shoes or boots. Loose clothing and jewelry should not be worn.
 6. Never operate any machine unless all guards and safety devices are in place and in proper operating condition.
 7. Keep all tools in safe working condition. Never use defective tools or equipment. Report any defective tools or equipment to immediate supervisor promptly.
 8. Properly care for and be responsible for all personal protective equipment.
 9. Be alert and keep out from under overhead loads.
 10. Do not operate machinery if you are not authorized to do so.
 11. Do not leave materials in aisles, walkways, stairways, roads or other points of egress.
 12. Practice good housekeeping at all times.
 13. Do not stand or sit on sides of moving equipment.
 14. The use of, or being under the influence of, intoxicating beverages or illegal drugs while on the job is prohibited.
 15. All posted safety rules must be obeyed and must not be removed except by management's authorization.
 16. Comply at all times with all known federal, state and local safety laws as well as employer regulations and policies.
 17. Horseplay causes accidents and will not be tolerated.
- Violations of any of these rules may be cause for immediate disciplinary action.

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